

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.812/06
Kajod Vs. State of Raj. & Ors.

30.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Sudesh Bansal for petitioner.
Shri B.S. Chhaba, Deputy Government
Advocate.

Contention of the petitioner is that he was elected for the office of Sarpanch Bambulia Kalan, Panchayat Samiti, Itawah, Kota which was reserved for S.C. Defeated candidate Jagdish i.e. Respondent no.7 has challenged the election of the petitioner on the ground that he does not belong to S.C. The respondents are now proceeding against in administrative action to hold that he does not belong to SC, which matter being related to pre-election disqualification, the respondents according

to full bench decision of this court in Smt. Sameera Bano Vs. State of Raj. & Ors., D.B. Special Appeal (W) No.236/06 cannot do so and he can be removed only by way of an election petition which is already pending.

Controversy raised in this case is squarely covered by the decision of Larger Bench in the case of Smt. Sameera Bano Vs. State of Raj. & Ors, D.B. Special Appeal (W) No.236/06, decided on 2.4.2007 wherein it was held as under:-

“that a pre-election disqualification can be adjudicated only in an election petition before the District Judge under Section 43 of the Act read with rule 80 of the Election Rules and cannot be adjudicated by the authority under rule 23 of the Rules.”

Following the view taken by the larger bench in Smt. Sameera Bano, supra, the writ petition deserves to be allowed and is

accordingly allowed and the petitioner is held entitled to continue to hold the office of Sarpanch, Gram Panchayat Bambulia Kalan, Panchayat Samiti Itawa, Kota. Decision of this writ petition however would not prejudice case of either of the parties in pending election petition.

(Mohammad Rafiq), J.

Rs/-